

# HB3141



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3141

by Rep. David Harris

### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-10	
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 120/2-10	

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that the tax on gasohol applies to 100% of the proceeds of sales made on or after the effective date (currently, the tax applies to 80% of the proceeds of sales made before December 31, 2018 and 100% of the proceeds of sales made thereafter).

LRB100 10947 HLH 21184 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Use Tax Act is amended by changing Section  
5 3-10 as follows:

6 (35 ILCS 105/3-10)

7 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
8 Section, the tax imposed by this Act is at the rate of 6.25% of  
9 either the selling price or the fair market value, if any, of  
10 the tangible personal property. In all cases where property  
11 functionally used or consumed is the same as the property that  
12 was purchased at retail, then the tax is imposed on the selling  
13 price of the property. In all cases where property functionally  
14 used or consumed is a by-product or waste product that has been  
15 refined, manufactured, or produced from property purchased at  
16 retail, then the tax is imposed on the lower of the fair market  
17 value, if any, of the specific property so used in this State  
18 or on the selling price of the property purchased at retail.  
19 For purposes of this Section "fair market value" means the  
20 price at which property would change hands between a willing  
21 buyer and a willing seller, neither being under any compulsion  
22 to buy or sell and both having reasonable knowledge of the  
23 relevant facts. The fair market value shall be established by

1 Illinois sales by the taxpayer of the same property as that  
2 functionally used or consumed, or if there are no such sales by  
3 the taxpayer, then comparable sales or purchases of property of  
4 like kind and character in Illinois.

5 Beginning on July 1, 2000 and through December 31, 2000,  
6 with respect to motor fuel, as defined in Section 1.1 of the  
7 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
8 the Use Tax Act, the tax is imposed at the rate of 1.25%.

9 Beginning on August 6, 2010 through August 15, 2010, with  
10 respect to sales tax holiday items as defined in Section 3-6 of  
11 this Act, the tax is imposed at the rate of 1.25%.

12 ~~With respect to gasohol, the tax imposed by this Act~~  
13 ~~applies to (i) 70% of the proceeds of sales made on or after~~  
14 ~~January 1, 1990, and before July 1, 2003, (ii) 80% of the~~  
15 ~~proceeds of sales made on or after July 1, 2003 and on or~~  
16 ~~before December 31, 2018, and (iii) 100% of the proceeds of~~  
17 ~~sales made thereafter. If, at any time, however, the tax under~~  
18 ~~this Act on sales of gasohol is imposed at the rate of 1.25%,~~  
19 ~~then the tax imposed by this Act applies to 100% of the~~  
20 ~~proceeds of sales of gasohol made during that time.~~

21 With respect to majority blended ethanol fuel, the tax  
22 imposed by this Act does not apply to the proceeds of sales  
23 made on or after July 1, 2003 and on or before December 31,  
24 2018 but applies to 100% of the proceeds of sales made  
25 thereafter.

26 With respect to biodiesel blends with no less than 1% and

1 no more than 10% biodiesel, the tax imposed by this Act applies  
2 to (i) 80% of the proceeds of sales made on or after July 1,  
3 2003 and on or before December 31, 2018 and (ii) 100% of the  
4 proceeds of sales made thereafter. If, at any time, however,  
5 the tax under this Act on sales of biodiesel blends with no  
6 less than 1% and no more than 10% biodiesel is imposed at the  
7 rate of 1.25%, then the tax imposed by this Act applies to 100%  
8 of the proceeds of sales of biodiesel blends with no less than  
9 1% and no more than 10% biodiesel made during that time.

10 With respect to 100% biodiesel and biodiesel blends with  
11 more than 10% but no more than 99% biodiesel, the tax imposed  
12 by this Act does not apply to the proceeds of sales made on or  
13 after July 1, 2003 and on or before December 31, 2018 but  
14 applies to 100% of the proceeds of sales made thereafter.

15 With respect to food for human consumption that is to be  
16 consumed off the premises where it is sold (other than  
17 alcoholic beverages, soft drinks, and food that has been  
18 prepared for immediate consumption) and prescription and  
19 nonprescription medicines, drugs, medical appliances, products  
20 classified as Class III medical devices by the United States  
21 Food and Drug Administration that are used for cancer treatment  
22 pursuant to a prescription, as well as any accessories and  
23 components related to those devices, modifications to a motor  
24 vehicle for the purpose of rendering it usable by a person with  
25 a disability, and insulin, urine testing materials, syringes,  
26 and needles used by diabetics, for human use, the tax is

1 imposed at the rate of 1%. For the purposes of this Section,  
2 until September 1, 2009: the term "soft drinks" means any  
3 complete, finished, ready-to-use, non-alcoholic drink, whether  
4 carbonated or not, including but not limited to soda water,  
5 cola, fruit juice, vegetable juice, carbonated water, and all  
6 other preparations commonly known as soft drinks of whatever  
7 kind or description that are contained in any closed or sealed  
8 bottle, can, carton, or container, regardless of size; but  
9 "soft drinks" does not include coffee, tea, non-carbonated  
10 water, infant formula, milk or milk products as defined in the  
11 Grade A Pasteurized Milk and Milk Products Act, or drinks  
12 containing 50% or more natural fruit or vegetable juice.

13 Notwithstanding any other provisions of this Act,  
14 beginning September 1, 2009, "soft drinks" means non-alcoholic  
15 beverages that contain natural or artificial sweeteners. "Soft  
16 drinks" do not include beverages that contain milk or milk  
17 products, soy, rice or similar milk substitutes, or greater  
18 than 50% of vegetable or fruit juice by volume.

19 Until August 1, 2009, and notwithstanding any other  
20 provisions of this Act, "food for human consumption that is to  
21 be consumed off the premises where it is sold" includes all  
22 food sold through a vending machine, except soft drinks and  
23 food products that are dispensed hot from a vending machine,  
24 regardless of the location of the vending machine. Beginning  
25 August 1, 2009, and notwithstanding any other provisions of  
26 this Act, "food for human consumption that is to be consumed

1 off the premises where it is sold" includes all food sold  
2 through a vending machine, except soft drinks, candy, and food  
3 products that are dispensed hot from a vending machine,  
4 regardless of the location of the vending machine.

5 Notwithstanding any other provisions of this Act,  
6 beginning September 1, 2009, "food for human consumption that  
7 is to be consumed off the premises where it is sold" does not  
8 include candy. For purposes of this Section, "candy" means a  
9 preparation of sugar, honey, or other natural or artificial  
10 sweeteners in combination with chocolate, fruits, nuts or other  
11 ingredients or flavorings in the form of bars, drops, or  
12 pieces. "Candy" does not include any preparation that contains  
13 flour or requires refrigeration.

14 Notwithstanding any other provisions of this Act,  
15 beginning September 1, 2009, "nonprescription medicines and  
16 drugs" does not include grooming and hygiene products. For  
17 purposes of this Section, "grooming and hygiene products"  
18 includes, but is not limited to, soaps and cleaning solutions,  
19 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
20 lotions and screens, unless those products are available by  
21 prescription only, regardless of whether the products meet the  
22 definition of "over-the-counter-drugs". For the purposes of  
23 this paragraph, "over-the-counter-drug" means a drug for human  
24 use that contains a label that identifies the product as a drug  
25 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
26 label includes:

1 (A) A "Drug Facts" panel; or

2 (B) A statement of the "active ingredient(s)" with a  
3 list of those ingredients contained in the compound,  
4 substance or preparation.

5 Beginning on the effective date of this amendatory Act of  
6 the 98th General Assembly, "prescription and nonprescription  
7 medicines and drugs" includes medical cannabis purchased from a  
8 registered dispensing organization under the Compassionate Use  
9 of Medical Cannabis Pilot Program Act.

10 If the property that is purchased at retail from a retailer  
11 is acquired outside Illinois and used outside Illinois before  
12 being brought to Illinois for use here and is taxable under  
13 this Act, the "selling price" on which the tax is computed  
14 shall be reduced by an amount that represents a reasonable  
15 allowance for depreciation for the period of prior out-of-state  
16 use.

17 (Source: P.A. 98-122, eff. 1-1-14; 99-143, eff. 7-27-15;  
18 99-858, eff. 8-19-16.)

19 Section 10. The Service Use Tax Act is amended by changing  
20 Section 3-10 as follows:

21 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

22 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
23 Section, the tax imposed by this Act is at the rate of 6.25% of  
24 the selling price of tangible personal property transferred as

1 an incident to the sale of service, but, for the purpose of  
2 computing this tax, in no event shall the selling price be less  
3 than the cost price of the property to the serviceman.

4 Beginning on July 1, 2000 and through December 31, 2000,  
5 with respect to motor fuel, as defined in Section 1.1 of the  
6 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
7 the Use Tax Act, the tax is imposed at the rate of 1.25%.

8 ~~With respect to gasohol, as defined in the Use Tax Act, the~~  
9 ~~tax imposed by this Act applies to (i) 70% of the selling price~~  
10 ~~of property transferred as an incident to the sale of service~~  
11 ~~on or after January 1, 1990, and before July 1, 2003, (ii) 80%~~  
12 ~~of the selling price of property transferred as an incident to~~  
13 ~~the sale of service on or after July 1, 2003 and on or before~~  
14 ~~December 31, 2018, and (iii) 100% of the selling price~~  
15 ~~thereafter. If, at any time, however, the tax under this Act on~~  
16 ~~sales of gasohol, as defined in the Use Tax Act, is imposed at~~  
17 ~~the rate of 1.25%, then the tax imposed by this Act applies to~~  
18 ~~100% of the proceeds of sales of gasohol made during that time.~~

19 With respect to majority blended ethanol fuel, as defined  
20 in the Use Tax Act, the tax imposed by this Act does not apply  
21 to the selling price of property transferred as an incident to  
22 the sale of service on or after July 1, 2003 and on or before  
23 December 31, 2018 but applies to 100% of the selling price  
24 thereafter.

25 With respect to biodiesel blends, as defined in the Use Tax  
26 Act, with no less than 1% and no more than 10% biodiesel, the



1 tax imposed by this Act applies to (i) 80% of the selling price  
2 of property transferred as an incident to the sale of service  
3 on or after July 1, 2003 and on or before December 31, 2018 and  
4 (ii) 100% of the proceeds of the selling price thereafter. If,  
5 at any time, however, the tax under this Act on sales of  
6 biodiesel blends, as defined in the Use Tax Act, with no less  
7 than 1% and no more than 10% biodiesel is imposed at the rate  
8 of 1.25%, then the tax imposed by this Act applies to 100% of  
9 the proceeds of sales of biodiesel blends with no less than 1%  
10 and no more than 10% biodiesel made during that time.

11 With respect to 100% biodiesel, as defined in the Use Tax  
12 Act, and biodiesel blends, as defined in the Use Tax Act, with  
13 more than 10% but no more than 99% biodiesel, the tax imposed  
14 by this Act does not apply to the proceeds of the selling price  
15 of property transferred as an incident to the sale of service  
16 on or after July 1, 2003 and on or before December 31, 2018 but  
17 applies to 100% of the selling price thereafter.

18 At the election of any registered serviceman made for each  
19 fiscal year, sales of service in which the aggregate annual  
20 cost price of tangible personal property transferred as an  
21 incident to the sales of service is less than 35%, or 75% in  
22 the case of servicemen transferring prescription drugs or  
23 servicemen engaged in graphic arts production, of the aggregate  
24 annual total gross receipts from all sales of service, the tax  
25 imposed by this Act shall be based on the serviceman's cost  
26 price of the tangible personal property transferred as an

1 incident to the sale of those services.

2 The tax shall be imposed at the rate of 1% on food prepared  
3 for immediate consumption and transferred incident to a sale of  
4 service subject to this Act or the Service Occupation Tax Act  
5 by an entity licensed under the Hospital Licensing Act, the  
6 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD  
7 Act, the Specialized Mental Health Rehabilitation Act of 2013,  
8 or the Child Care Act of 1969. The tax shall also be imposed at  
9 the rate of 1% on food for human consumption that is to be  
10 consumed off the premises where it is sold (other than  
11 alcoholic beverages, soft drinks, and food that has been  
12 prepared for immediate consumption and is not otherwise  
13 included in this paragraph) and prescription and  
14 nonprescription medicines, drugs, medical appliances, products  
15 classified as Class III medical devices by the United States  
16 Food and Drug Administration that are used for cancer treatment  
17 pursuant to a prescription, as well as any accessories and  
18 components related to those devices, modifications to a motor  
19 vehicle for the purpose of rendering it usable by a person with  
20 a disability, and insulin, urine testing materials, syringes,  
21 and needles used by diabetics, for human use. For the purposes  
22 of this Section, until September 1, 2009: the term "soft  
23 drinks" means any complete, finished, ready-to-use,  
24 non-alcoholic drink, whether carbonated or not, including but  
25 not limited to soda water, cola, fruit juice, vegetable juice,  
26 carbonated water, and all other preparations commonly known as

1 soft drinks of whatever kind or description that are contained  
2 in any closed or sealed bottle, can, carton, or container,  
3 regardless of size; but "soft drinks" does not include coffee,  
4 tea, non-carbonated water, infant formula, milk or milk  
5 products as defined in the Grade A Pasteurized Milk and Milk  
6 Products Act, or drinks containing 50% or more natural fruit or  
7 vegetable juice.

8 Notwithstanding any other provisions of this Act,  
9 beginning September 1, 2009, "soft drinks" means non-alcoholic  
10 beverages that contain natural or artificial sweeteners. "Soft  
11 drinks" do not include beverages that contain milk or milk  
12 products, soy, rice or similar milk substitutes, or greater  
13 than 50% of vegetable or fruit juice by volume.

14 Until August 1, 2009, and notwithstanding any other  
15 provisions of this Act, "food for human consumption that is to  
16 be consumed off the premises where it is sold" includes all  
17 food sold through a vending machine, except soft drinks and  
18 food products that are dispensed hot from a vending machine,  
19 regardless of the location of the vending machine. Beginning  
20 August 1, 2009, and notwithstanding any other provisions of  
21 this Act, "food for human consumption that is to be consumed  
22 off the premises where it is sold" includes all food sold  
23 through a vending machine, except soft drinks, candy, and food  
24 products that are dispensed hot from a vending machine,  
25 regardless of the location of the vending machine.

26 Notwithstanding any other provisions of this Act,

1 beginning September 1, 2009, "food for human consumption that  
2 is to be consumed off the premises where it is sold" does not  
3 include candy. For purposes of this Section, "candy" means a  
4 preparation of sugar, honey, or other natural or artificial  
5 sweeteners in combination with chocolate, fruits, nuts or other  
6 ingredients or flavorings in the form of bars, drops, or  
7 pieces. "Candy" does not include any preparation that contains  
8 flour or requires refrigeration.

9 Notwithstanding any other provisions of this Act,  
10 beginning September 1, 2009, "nonprescription medicines and  
11 drugs" does not include grooming and hygiene products. For  
12 purposes of this Section, "grooming and hygiene products"  
13 includes, but is not limited to, soaps and cleaning solutions,  
14 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
15 lotions and screens, unless those products are available by  
16 prescription only, regardless of whether the products meet the  
17 definition of "over-the-counter-drugs". For the purposes of  
18 this paragraph, "over-the-counter-drug" means a drug for human  
19 use that contains a label that identifies the product as a drug  
20 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
21 label includes:

22 (A) A "Drug Facts" panel; or

23 (B) A statement of the "active ingredient(s)" with a  
24 list of those ingredients contained in the compound,  
25 substance or preparation.

26 Beginning on January 1, 2014 (the effective date of Public

1 Act 98-122), "prescription and nonprescription medicines and  
2 drugs" includes medical cannabis purchased from a registered  
3 dispensing organization under the Compassionate Use of Medical  
4 Cannabis Pilot Program Act.

5 If the property that is acquired from a serviceman is  
6 acquired outside Illinois and used outside Illinois before  
7 being brought to Illinois for use here and is taxable under  
8 this Act, the "selling price" on which the tax is computed  
9 shall be reduced by an amount that represents a reasonable  
10 allowance for depreciation for the period of prior out-of-state  
11 use.

12 (Source: P.A. 98-104, eff. 7-22-13; 98-122, eff. 1-1-14;  
13 98-756, eff. 7-16-14; 99-143, eff. 7-27-15; 99-180, eff.  
14 7-29-15; 99-642, eff. 7-28-16; 99-858, eff. 8-19-16.)

15 Section 15. The Service Occupation Tax Act is amended by  
16 changing Section 3-10 as follows:

17 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

18 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
19 Section, the tax imposed by this Act is at the rate of 6.25% of  
20 the "selling price", as defined in Section 2 of the Service Use  
21 Tax Act, of the tangible personal property. For the purpose of  
22 computing this tax, in no event shall the "selling price" be  
23 less than the cost price to the serviceman of the tangible  
24 personal property transferred. The selling price of each item

1 of tangible personal property transferred as an incident of a  
2 sale of service may be shown as a distinct and separate item on  
3 the serviceman's billing to the service customer. If the  
4 selling price is not so shown, the selling price of the  
5 tangible personal property is deemed to be 50% of the  
6 serviceman's entire billing to the service customer. When,  
7 however, a serviceman contracts to design, develop, and produce  
8 special order machinery or equipment, the tax imposed by this  
9 Act shall be based on the serviceman's cost price of the  
10 tangible personal property transferred incident to the  
11 completion of the contract.

12 Beginning on July 1, 2000 and through December 31, 2000,  
13 with respect to motor fuel, as defined in Section 1.1 of the  
14 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
15 the Use Tax Act, the tax is imposed at the rate of 1.25%.

16 ~~With respect to gasohol, as defined in the Use Tax Act, the~~  
17 ~~tax imposed by this Act shall apply to (i) 70% of the cost~~  
18 ~~price of property transferred as an incident to the sale of~~  
19 ~~service on or after January 1, 1990, and before July 1, 2003,~~  
20 ~~(ii) 80% of the selling price of property transferred as an~~  
21 ~~incident to the sale of service on or after July 1, 2003 and on~~  
22 ~~or before December 31, 2018, and (iii) 100% of the cost price~~  
23 ~~thereafter. If, at any time, however, the tax under this Act on~~  
24 ~~sales of gasohol, as defined in the Use Tax Act, is imposed at~~  
25 ~~the rate of 1.25%, then the tax imposed by this Act applies to~~  
26 ~~100% of the proceeds of sales of gasohol made during that time.~~

1           With respect to majority blended ethanol fuel, as defined  
2 in the Use Tax Act, the tax imposed by this Act does not apply  
3 to the selling price of property transferred as an incident to  
4 the sale of service on or after July 1, 2003 and on or before  
5 December 31, 2018 but applies to 100% of the selling price  
6 thereafter.

7           With respect to biodiesel blends, as defined in the Use Tax  
8 Act, with no less than 1% and no more than 10% biodiesel, the  
9 tax imposed by this Act applies to (i) 80% of the selling price  
10 of property transferred as an incident to the sale of service  
11 on or after July 1, 2003 and on or before December 31, 2018 and  
12 (ii) 100% of the proceeds of the selling price thereafter. If,  
13 at any time, however, the tax under this Act on sales of  
14 biodiesel blends, as defined in the Use Tax Act, with no less  
15 than 1% and no more than 10% biodiesel is imposed at the rate  
16 of 1.25%, then the tax imposed by this Act applies to 100% of  
17 the proceeds of sales of biodiesel blends with no less than 1%  
18 and no more than 10% biodiesel made during that time.

19           With respect to 100% biodiesel, as defined in the Use Tax  
20 Act, and biodiesel blends, as defined in the Use Tax Act, with  
21 more than 10% but no more than 99% biodiesel material, the tax  
22 imposed by this Act does not apply to the proceeds of the  
23 selling price of property transferred as an incident to the  
24 sale of service on or after July 1, 2003 and on or before  
25 December 31, 2018 but applies to 100% of the selling price  
26 thereafter.

1           At the election of any registered serviceman made for each  
2 fiscal year, sales of service in which the aggregate annual  
3 cost price of tangible personal property transferred as an  
4 incident to the sales of service is less than 35%, or 75% in  
5 the case of servicemen transferring prescription drugs or  
6 servicemen engaged in graphic arts production, of the aggregate  
7 annual total gross receipts from all sales of service, the tax  
8 imposed by this Act shall be based on the serviceman's cost  
9 price of the tangible personal property transferred incident to  
10 the sale of those services.

11           The tax shall be imposed at the rate of 1% on food prepared  
12 for immediate consumption and transferred incident to a sale of  
13 service subject to this Act or the Service Occupation Tax Act  
14 by an entity licensed under the Hospital Licensing Act, the  
15 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD  
16 Act, the Specialized Mental Health Rehabilitation Act of 2013,  
17 or the Child Care Act of 1969. The tax shall also be imposed at  
18 the rate of 1% on food for human consumption that is to be  
19 consumed off the premises where it is sold (other than  
20 alcoholic beverages, soft drinks, and food that has been  
21 prepared for immediate consumption and is not otherwise  
22 included in this paragraph) and prescription and  
23 nonprescription medicines, drugs, medical appliances, products  
24 classified as Class III medical devices by the United States  
25 Food and Drug Administration that are used for cancer treatment  
26 pursuant to a prescription, as well as any accessories and



1 components related to those devices, modifications to a motor  
2 vehicle for the purpose of rendering it usable by a person with  
3 a disability, and insulin, urine testing materials, syringes,  
4 and needles used by diabetics, for human use. For the purposes  
5 of this Section, until September 1, 2009: the term "soft  
6 drinks" means any complete, finished, ready-to-use,  
7 non-alcoholic drink, whether carbonated or not, including but  
8 not limited to soda water, cola, fruit juice, vegetable juice,  
9 carbonated water, and all other preparations commonly known as  
10 soft drinks of whatever kind or description that are contained  
11 in any closed or sealed can, carton, or container, regardless  
12 of size; but "soft drinks" does not include coffee, tea,  
13 non-carbonated water, infant formula, milk or milk products as  
14 defined in the Grade A Pasteurized Milk and Milk Products Act,  
15 or drinks containing 50% or more natural fruit or vegetable  
16 juice.

17 Notwithstanding any other provisions of this Act,  
18 beginning September 1, 2009, "soft drinks" means non-alcoholic  
19 beverages that contain natural or artificial sweeteners. "Soft  
20 drinks" do not include beverages that contain milk or milk  
21 products, soy, rice or similar milk substitutes, or greater  
22 than 50% of vegetable or fruit juice by volume.

23 Until August 1, 2009, and notwithstanding any other  
24 provisions of this Act, "food for human consumption that is to  
25 be consumed off the premises where it is sold" includes all  
26 food sold through a vending machine, except soft drinks and

1 food products that are dispensed hot from a vending machine,  
2 regardless of the location of the vending machine. Beginning  
3 August 1, 2009, and notwithstanding any other provisions of  
4 this Act, "food for human consumption that is to be consumed  
5 off the premises where it is sold" includes all food sold  
6 through a vending machine, except soft drinks, candy, and food  
7 products that are dispensed hot from a vending machine,  
8 regardless of the location of the vending machine.

9 Notwithstanding any other provisions of this Act,  
10 beginning September 1, 2009, "food for human consumption that  
11 is to be consumed off the premises where it is sold" does not  
12 include candy. For purposes of this Section, "candy" means a  
13 preparation of sugar, honey, or other natural or artificial  
14 sweeteners in combination with chocolate, fruits, nuts or other  
15 ingredients or flavorings in the form of bars, drops, or  
16 pieces. "Candy" does not include any preparation that contains  
17 flour or requires refrigeration.

18 Notwithstanding any other provisions of this Act,  
19 beginning September 1, 2009, "nonprescription medicines and  
20 drugs" does not include grooming and hygiene products. For  
21 purposes of this Section, "grooming and hygiene products"  
22 includes, but is not limited to, soaps and cleaning solutions,  
23 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
24 lotions and screens, unless those products are available by  
25 prescription only, regardless of whether the products meet the  
26 definition of "over-the-counter-drugs". For the purposes of

1 this paragraph, "over-the-counter-drug" means a drug for human  
2 use that contains a label that identifies the product as a drug  
3 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
4 label includes:

5 (A) A "Drug Facts" panel; or

6 (B) A statement of the "active ingredient(s)" with a  
7 list of those ingredients contained in the compound,  
8 substance or preparation.

9 Beginning on January 1, 2014 (the effective date of Public  
10 Act 98-122), "prescription and nonprescription medicines and  
11 drugs" includes medical cannabis purchased from a registered  
12 dispensing organization under the Compassionate Use of Medical  
13 Cannabis Pilot Program Act.

14 (Source: P.A. 98-104, eff. 7-22-13; 98-122, eff. 1-1-14;  
15 98-756, eff. 7-16-14; 99-143, eff. 7-27-15; 99-180, eff.  
16 7-29-15; 99-642, eff. 7-28-16; 99-858, eff. 8-19-16.)

17 Section 20. The Retailers' Occupation Tax Act is amended by  
18 changing Section 2-10 as follows:

19 (35 ILCS 120/2-10)

20 Sec. 2-10. Rate of tax. Unless otherwise provided in this  
21 Section, the tax imposed by this Act is at the rate of 6.25% of  
22 gross receipts from sales of tangible personal property made in  
23 the course of business.

24 Beginning on July 1, 2000 and through December 31, 2000,

1 with respect to motor fuel, as defined in Section 1.1 of the  
2 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
3 the Use Tax Act, the tax is imposed at the rate of 1.25%.

4 Beginning on August 6, 2010 through August 15, 2010, with  
5 respect to sales tax holiday items as defined in Section 2-8 of  
6 this Act, the tax is imposed at the rate of 1.25%.

7 Within 14 days after the effective date of this amendatory  
8 Act of the 91st General Assembly, each retailer of motor fuel  
9 and gasohol shall cause the following notice to be posted in a  
10 prominently visible place on each retail dispensing device that  
11 is used to dispense motor fuel or gasohol in the State of  
12 Illinois: "As of July 1, 2000, the State of Illinois has  
13 eliminated the State's share of sales tax on motor fuel and  
14 gasohol through December 31, 2000. The price on this pump  
15 should reflect the elimination of the tax." The notice shall be  
16 printed in bold print on a sign that is no smaller than 4  
17 inches by 8 inches. The sign shall be clearly visible to  
18 customers. Any retailer who fails to post or maintain a  
19 required sign through December 31, 2000 is guilty of a petty  
20 offense for which the fine shall be \$500 per day per each  
21 retail premises where a violation occurs.

22 ~~With respect to gasohol, as defined in the Use Tax Act, the~~  
23 ~~tax imposed by this Act applies to (i) 70% of the proceeds of~~  
24 ~~sales made on or after January 1, 1990, and before July 1,~~  
25 ~~2003, (ii) 80% of the proceeds of sales made on or after July~~  
26 ~~1, 2003 and on or before December 31, 2018, and (iii) 100% of~~

1 ~~the proceeds of sales made thereafter. If, at any time,~~  
2 ~~however, the tax under this Act on sales of gasohol, as defined~~  
3 ~~in the Use Tax Act, is imposed at the rate of 1.25%, then the~~  
4 ~~tax imposed by this Act applies to 100% of the proceeds of~~  
5 ~~sales of gasohol made during that time.~~

6 With respect to majority blended ethanol fuel, as defined  
7 in the Use Tax Act, the tax imposed by this Act does not apply  
8 to the proceeds of sales made on or after July 1, 2003 and on or  
9 before December 31, 2018 but applies to 100% of the proceeds of  
10 sales made thereafter.

11 With respect to biodiesel blends, as defined in the Use Tax  
12 Act, with no less than 1% and no more than 10% biodiesel, the  
13 tax imposed by this Act applies to (i) 80% of the proceeds of  
14 sales made on or after July 1, 2003 and on or before December  
15 31, 2018 and (ii) 100% of the proceeds of sales made  
16 thereafter. If, at any time, however, the tax under this Act on  
17 sales of biodiesel blends, as defined in the Use Tax Act, with  
18 no less than 1% and no more than 10% biodiesel is imposed at  
19 the rate of 1.25%, then the tax imposed by this Act applies to  
20 100% of the proceeds of sales of biodiesel blends with no less  
21 than 1% and no more than 10% biodiesel made during that time.

22 With respect to 100% biodiesel, as defined in the Use Tax  
23 Act, and biodiesel blends, as defined in the Use Tax Act, with  
24 more than 10% but no more than 99% biodiesel, the tax imposed  
25 by this Act does not apply to the proceeds of sales made on or  
26 after July 1, 2003 and on or before December 31, 2018 but

1 applies to 100% of the proceeds of sales made thereafter.

2 With respect to food for human consumption that is to be  
3 consumed off the premises where it is sold (other than  
4 alcoholic beverages, soft drinks, and food that has been  
5 prepared for immediate consumption) and prescription and  
6 nonprescription medicines, drugs, medical appliances, products  
7 classified as Class III medical devices by the United States  
8 Food and Drug Administration that are used for cancer treatment  
9 pursuant to a prescription, as well as any accessories and  
10 components related to those devices, modifications to a motor  
11 vehicle for the purpose of rendering it usable by a person with  
12 a disability, and insulin, urine testing materials, syringes,  
13 and needles used by diabetics, for human use, the tax is  
14 imposed at the rate of 1%. For the purposes of this Section,  
15 until September 1, 2009: the term "soft drinks" means any  
16 complete, finished, ready-to-use, non-alcoholic drink, whether  
17 carbonated or not, including but not limited to soda water,  
18 cola, fruit juice, vegetable juice, carbonated water, and all  
19 other preparations commonly known as soft drinks of whatever  
20 kind or description that are contained in any closed or sealed  
21 bottle, can, carton, or container, regardless of size; but  
22 "soft drinks" does not include coffee, tea, non-carbonated  
23 water, infant formula, milk or milk products as defined in the  
24 Grade A Pasteurized Milk and Milk Products Act, or drinks  
25 containing 50% or more natural fruit or vegetable juice.

26 Notwithstanding any other provisions of this Act,

1 beginning September 1, 2009, "soft drinks" means non-alcoholic  
2 beverages that contain natural or artificial sweeteners. "Soft  
3 drinks" do not include beverages that contain milk or milk  
4 products, soy, rice or similar milk substitutes, or greater  
5 than 50% of vegetable or fruit juice by volume.

6       Until August 1, 2009, and notwithstanding any other  
7 provisions of this Act, "food for human consumption that is to  
8 be consumed off the premises where it is sold" includes all  
9 food sold through a vending machine, except soft drinks and  
10 food products that are dispensed hot from a vending machine,  
11 regardless of the location of the vending machine. Beginning  
12 August 1, 2009, and notwithstanding any other provisions of  
13 this Act, "food for human consumption that is to be consumed  
14 off the premises where it is sold" includes all food sold  
15 through a vending machine, except soft drinks, candy, and food  
16 products that are dispensed hot from a vending machine,  
17 regardless of the location of the vending machine.

18       Notwithstanding any other provisions of this Act,  
19 beginning September 1, 2009, "food for human consumption that  
20 is to be consumed off the premises where it is sold" does not  
21 include candy. For purposes of this Section, "candy" means a  
22 preparation of sugar, honey, or other natural or artificial  
23 sweeteners in combination with chocolate, fruits, nuts or other  
24 ingredients or flavorings in the form of bars, drops, or  
25 pieces. "Candy" does not include any preparation that contains  
26 flour or requires refrigeration.

1           Notwithstanding any other provisions of this Act,  
2 beginning September 1, 2009, "nonprescription medicines and  
3 drugs" does not include grooming and hygiene products. For  
4 purposes of this Section, "grooming and hygiene products"  
5 includes, but is not limited to, soaps and cleaning solutions,  
6 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
7 lotions and screens, unless those products are available by  
8 prescription only, regardless of whether the products meet the  
9 definition of "over-the-counter-drugs". For the purposes of  
10 this paragraph, "over-the-counter-drug" means a drug for human  
11 use that contains a label that identifies the product as a drug  
12 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
13 label includes:

- 14           (A) A "Drug Facts" panel; or  
15           (B) A statement of the "active ingredient(s)" with a  
16 list of those ingredients contained in the compound,  
17 substance or preparation.

18           Beginning on the effective date of this amendatory Act of  
19 the 98th General Assembly, "prescription and nonprescription  
20 medicines and drugs" includes medical cannabis purchased from a  
21 registered dispensing organization under the Compassionate Use  
22 of Medical Cannabis Pilot Program Act.

23           (Source: P.A. 98-122, eff. 1-1-14; 99-143, eff. 7-27-15;  
24 99-858, eff. 8-19-16.)